Adult Corrections:

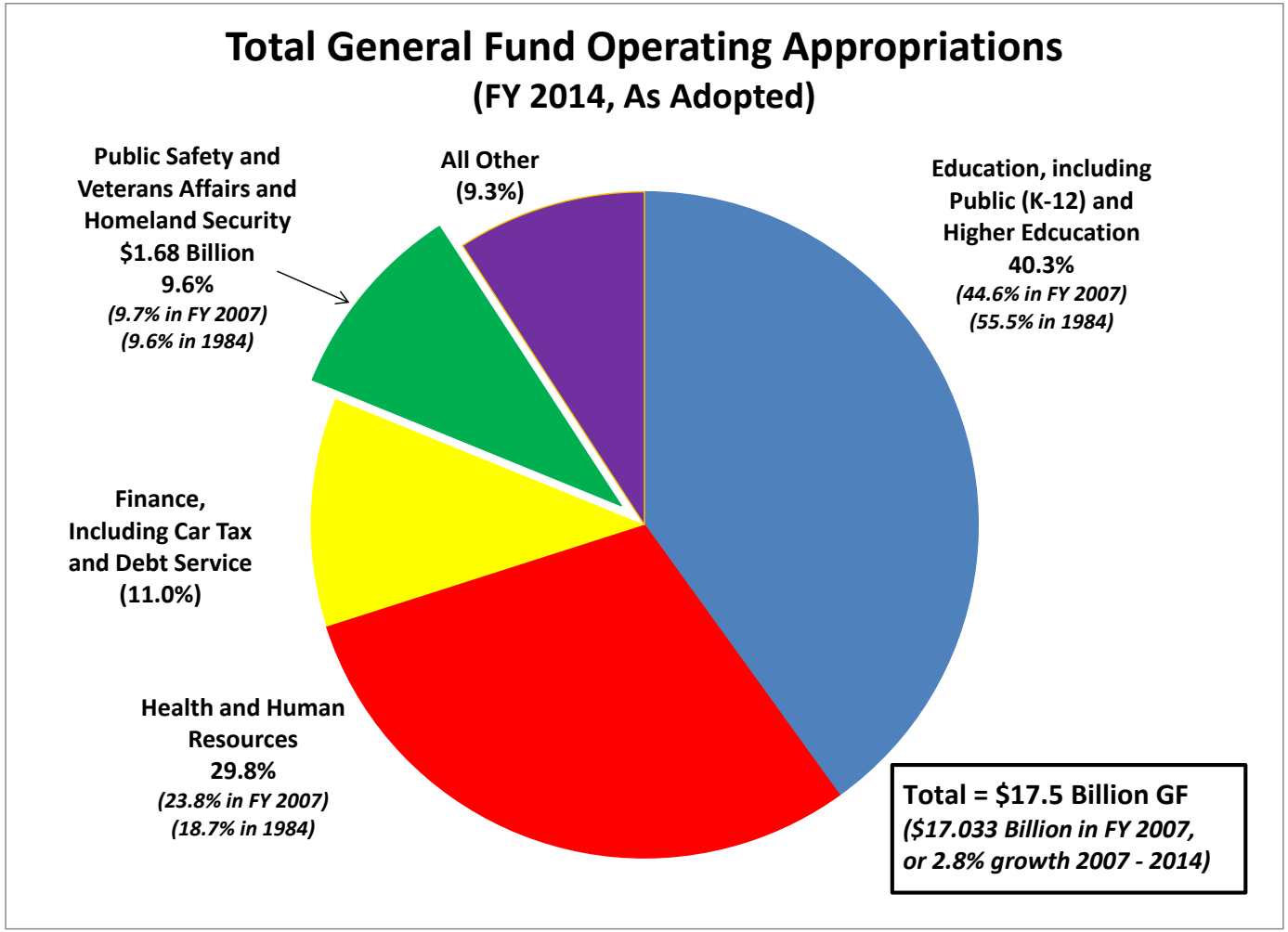
Controlling Inmate Medical Costs

Senate Finance Committee Retreat
(November 15, 2012)

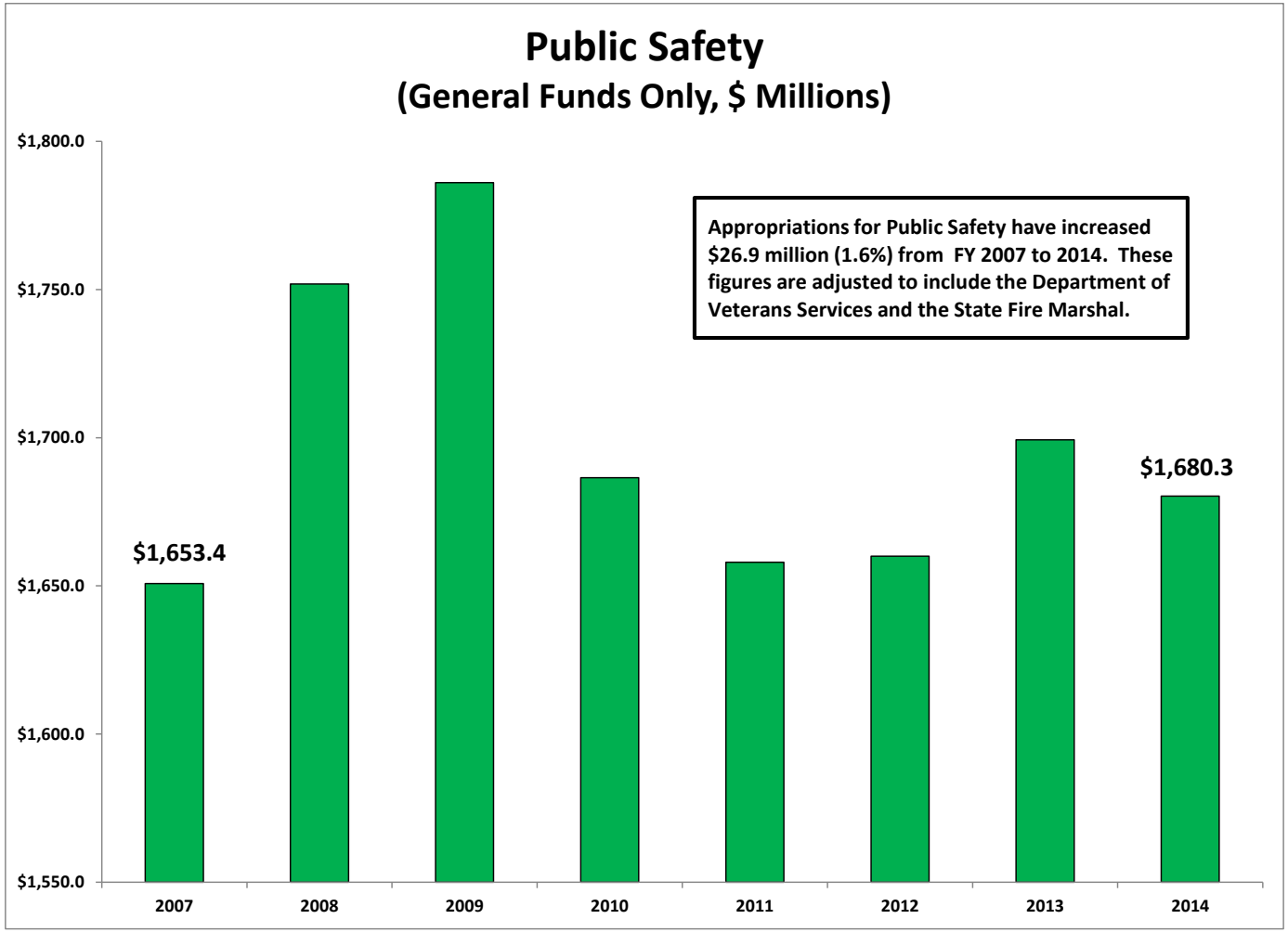
Overview

- Compared to other states, Virginia has a low violent crime rate, with low recidivism, and is a national leader in sentencing reform.
- Virginia's incarceration rate is high, and increased rapidly through the early 1990's -- but the rate of growth has slowed since 1994.
- Spending per inmate is below the national average.
  - The Department of Corrections (DOC) budget has been reduced over the past four years, but offender medical costs have continued to rise.
  - Increasing numbers of older inmates, along with inflation in medical costs, account for much of this increase.
- An important challenge is how best to manage correctional medical costs and older inmates.

Public Safety: 9.6% of the Budget



Appropriations (FY 2007 – 2014)



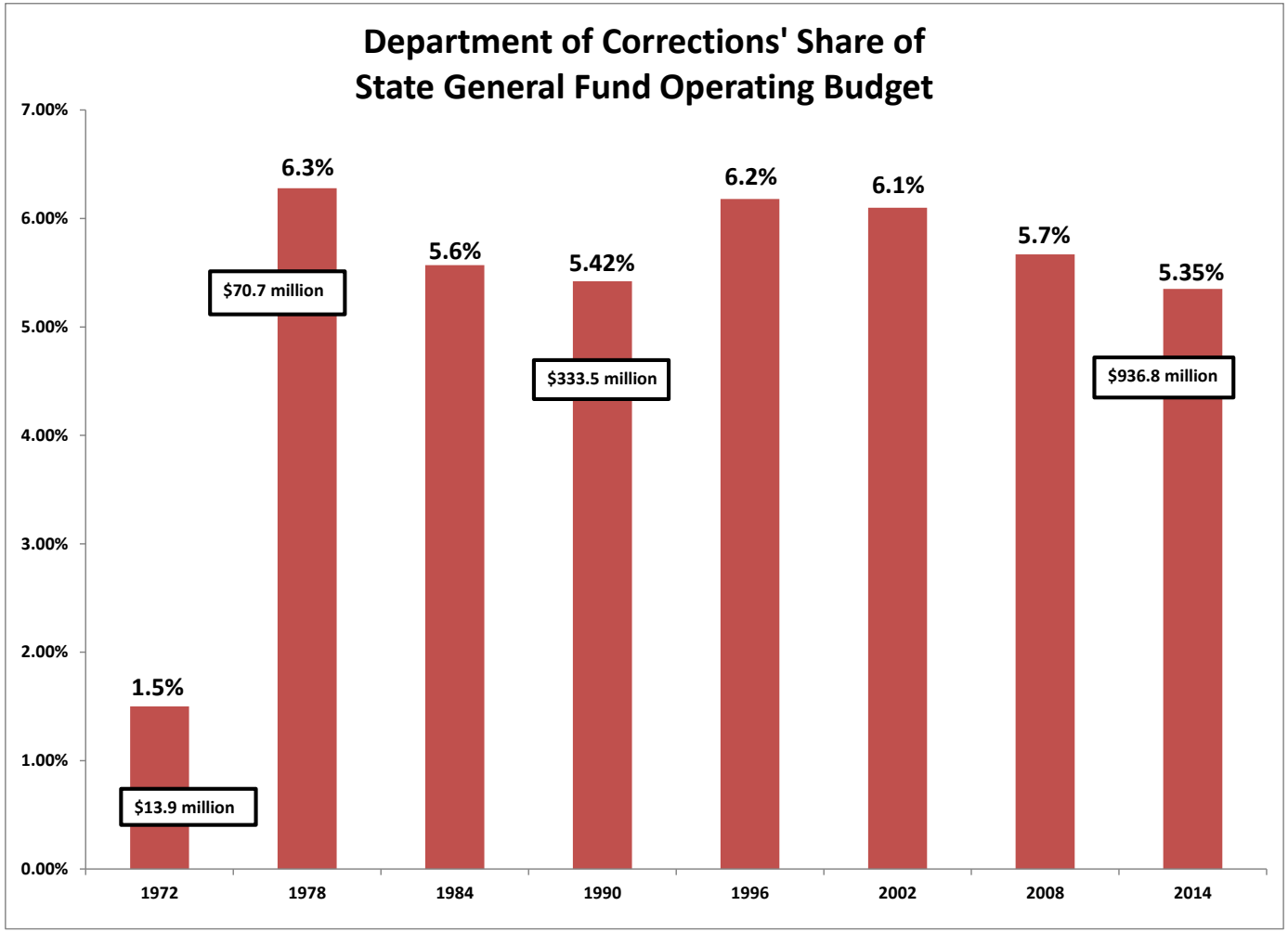
A Closer Look by Agency

ANALYSIS OF CHANGES IN PUBLIC SAFETY AGENCY BUDGETS, FY 2007 - 2014
(Legislative Appropriations, General Funds, $ Millions)

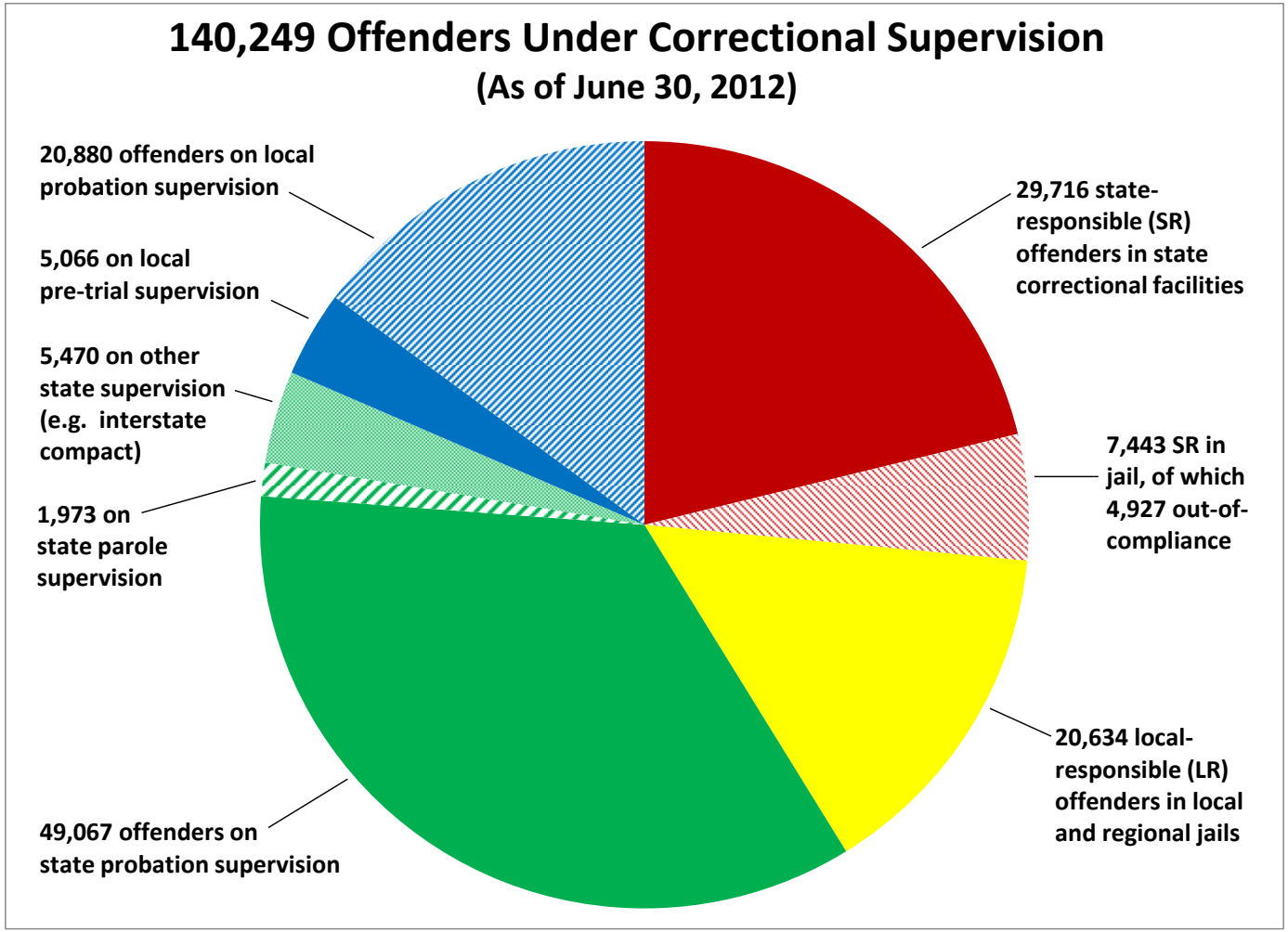
Agency/Program	FY 2007	FY 2014*	$ Change	% Change
Veterans Services	$4.5	$10.1	$5.6	124.4%
State Police	$202.1	$229.2	$27.1	13.4%
Forensic Science	$32.4	$36.3	$3.9	12.0%
Parole Board (Adjusted)	$0.7	$0.8	$0.1	11.3%
DCJS - Other Than HB 599	$33.6	$36.4	$2.8	8.3%
Corrections	**$894.0**	**$936.8**	**$42.8**	**4.8%**
Public Safety Total	**$1,653.4**	**$1,680.3**	**$26.9**	**1.6%**
Juvenile Justice	$206.4	$192.1	($14.3)	-6.9%
Correctional Education	$52.8	$48.2	($4.6)	-8.7%
Military Affairs	$10.2	$9.3	($0.9)	-8.8%
State Fire Marshal (Fire Programs)	$2.6	$2.2	($0.4)	-14.8%
HB 599	$206.3	$172.4	($33.9)	-16.4%
Comm Attorneys Services Council	$0.8	$0.6	($0.2)	-22.2%
Emergency Management	$6.3	$4.8	($1.5)	-24.0%
Secretary of Public Safety	$0.7	$0.6	($0.2)	-24.5%
Total Office of Public Safety	**$1,653.4**	**$1,680.1**	**$26.7**	**1.6%**

Note: Adjusted to include State Fire Marshal, Veterans Services in FY 2007, and to exclude recommended transfer of parole examiners from DOC to Parole Board, for comparison purposes.
** Chapter 3, 2012 Special Session 1, Appropriation Act for 2012-14, as adopted.*

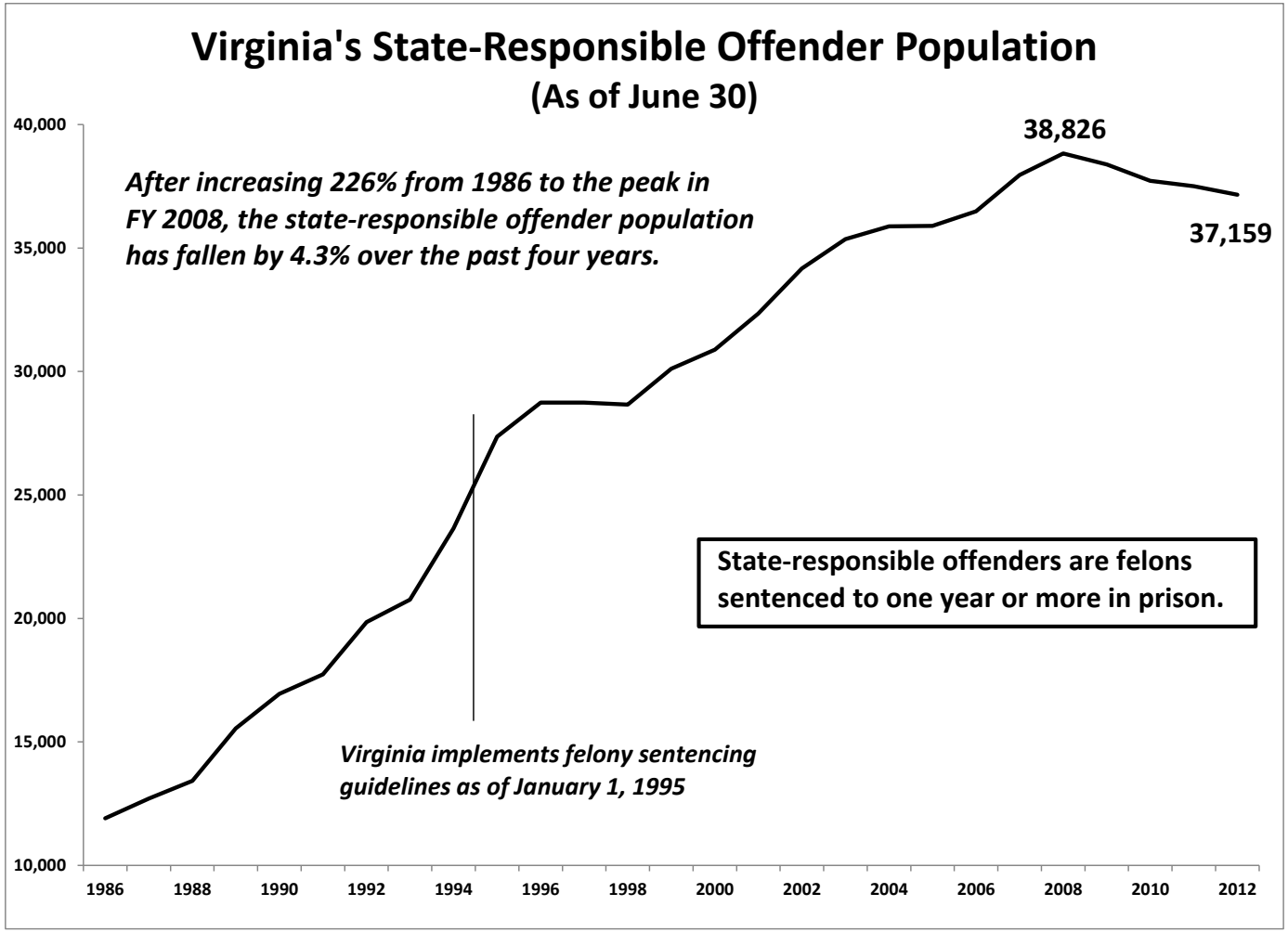
Corrections: A Declining Percentage



2.2% of Virginia's Adult Population



State Responsibility



Sentencing Reform

- In Virginia, sentencing guidelines were first pilot tested in the 1980's to reduce disparities in prison terms between offenders who had committed similar offenses under similar circumstances.

- Virginia abolished parole and adopted felony sentencing guidelines statewide in 1994 (effective January 1, 1995).
  - Convicted felons serve at least 85% of their nominal sentence.
  - Actual time served increased for violent and repeat offenders.
  - Sentencing disparities largely eliminated.

- Sentencing guidelines are voluntary and judicial compliance by Circuit Court judges averages 80%.

- Guidelines are administered by the Virginia Criminal Sentencing Commission in the Judicial Department.

Lower-Risk Offenders

- A frequent critique of sentencing policy in the United States is that, over the past generation, states have incarcerated too many lower-risk, non-violent offenders at very high cost.

- The evidence suggests Virginia does not incarcerate large numbers of lower-risk, non-violent offenders (e.g. possession of drugs).
  - The proportion of violent offenders in Virginia correctional facilities (as defined in statute for purposes of the sentencing guidelines) has increased from about 60% to 80% since 1994.
    - Burglary of an occupied dwelling is defined as a violent offense.

- Virginia was the first state to implement risk assessment guidelines in all judicial circuits in 2002, for felons who are convicted of non-violent offenses (fraud, larceny, and drug offenses) and who are also recommended for prison under the sentencing guidelines.

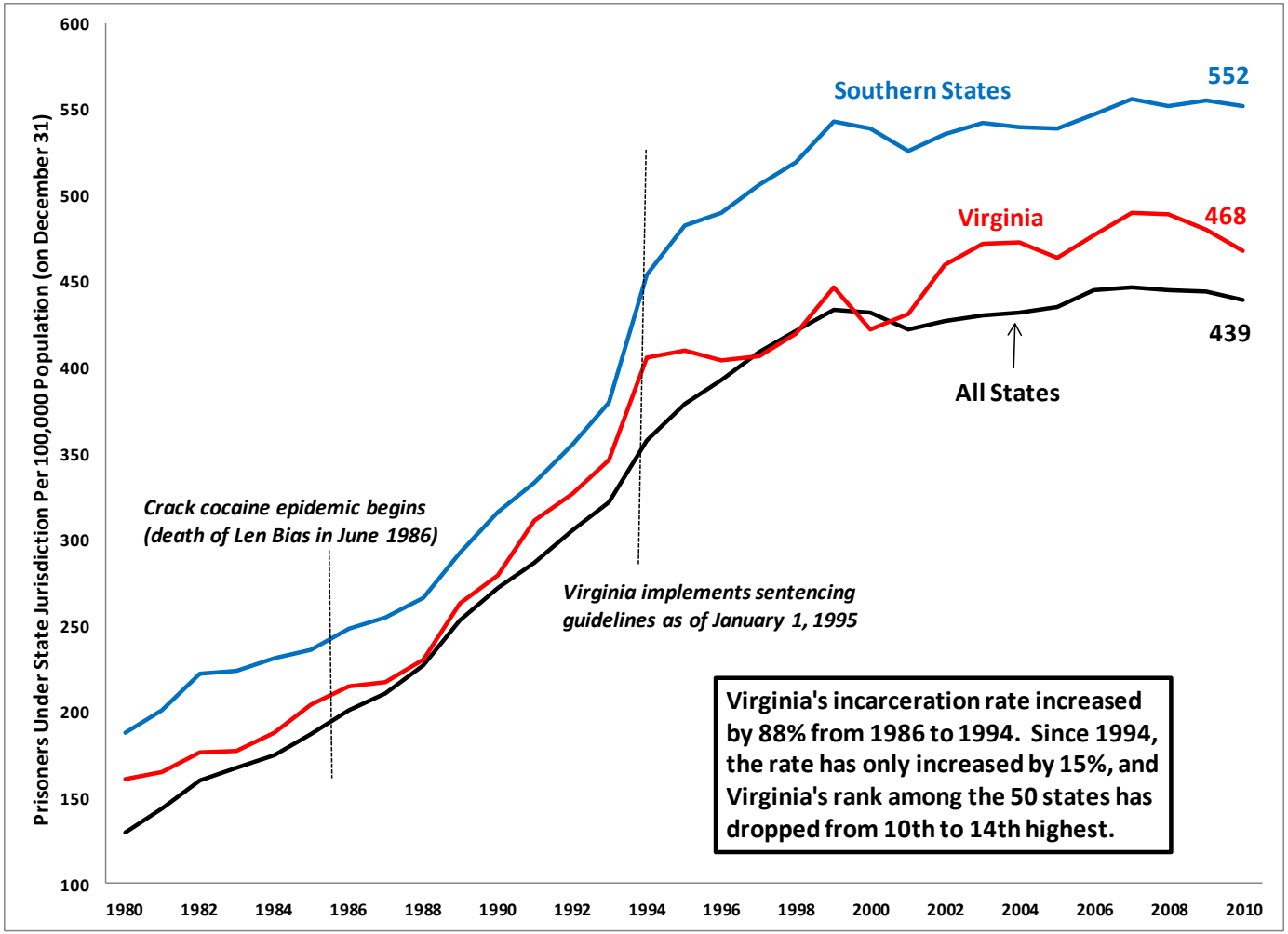
Incarceration for Drug Possession

- Under Virginia's sentencing guidelines, conviction for possession of Schedule I or II drugs by itself does not call for a prison sentence.
  - Unless there are other offenses or prior offenses involved.
- FY 2012: only 8 offenders convicted of possession of Schedule I or II drugs (1 count) and given a prison sentence, who did not receive any other points on the sentencing worksheet.
  - May have had prior drug arrests but were not convicted, or may have been charged with distribution but pled guilty to a reduced charge.
- FY 2012: 395 offenders convicted of possession of Schedule I or II drugs and given a prison sentence.
  - Typically had prior incarcerations, prior felony convictions, juvenile adjudications for drug offenses, were on supervised probation, etc.

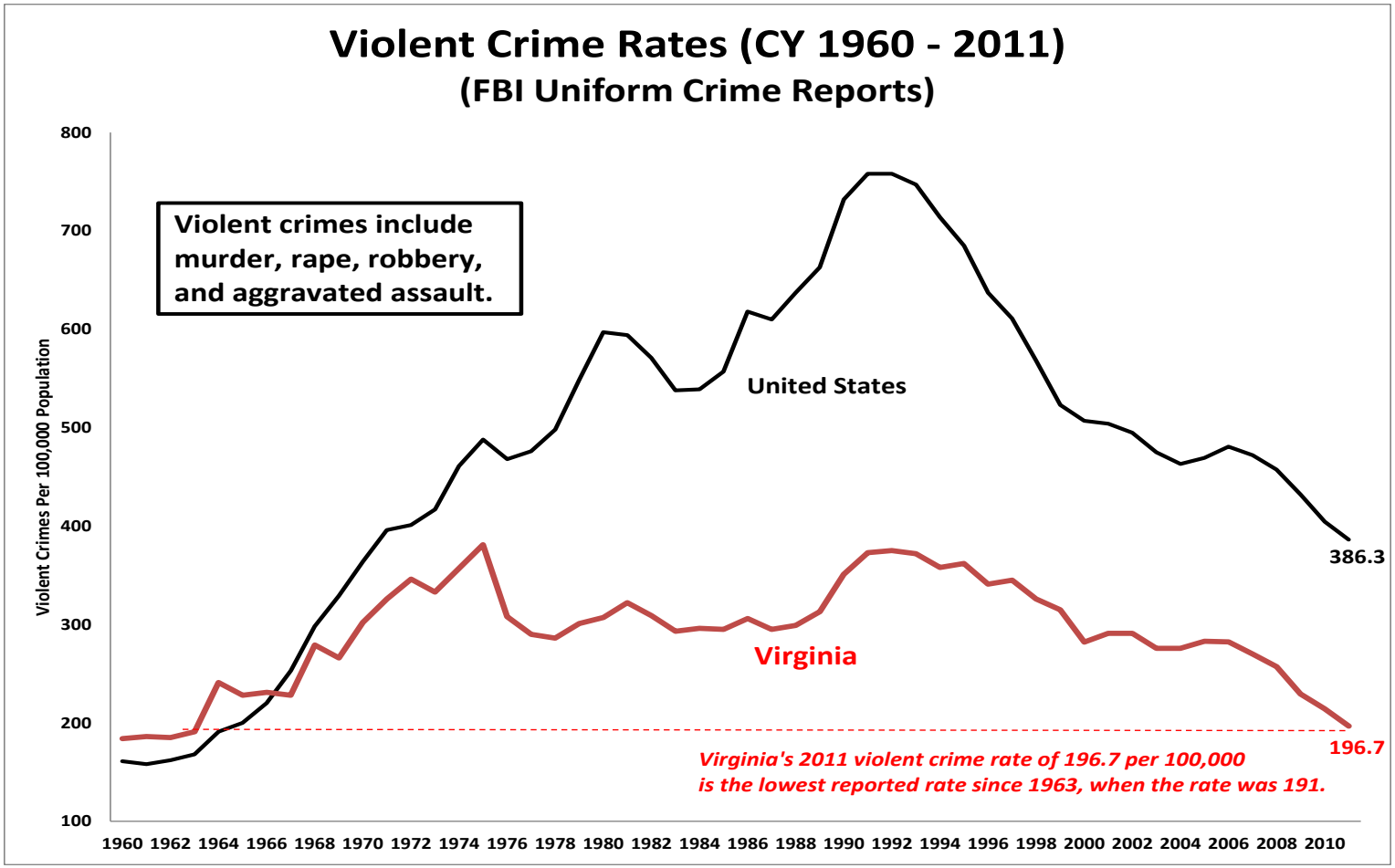
Key Points

- As intended, sentencing guidelines have helped reserve expensive prison space for violent, higher-risk offenders.
- The rapid increase in Virginia's rate of incarceration began to slow after sentencing guidelines were adopted in 1994, but many other states experienced the same trend.
- Virginia's rate of violent crime began to fall after the 1992 peak, but this has been the national trend as well.
- Virginia stands out because the rate of recidivism ranks relatively low – 6th lowest – compared to the 39 other states that report the same measure (re-incarceration within three years of release).
  - In Virginia, one in four returns to prison within three years.

Incarceration Rates Have Slowed



Violent Crime Rates Have Dropped



Why?

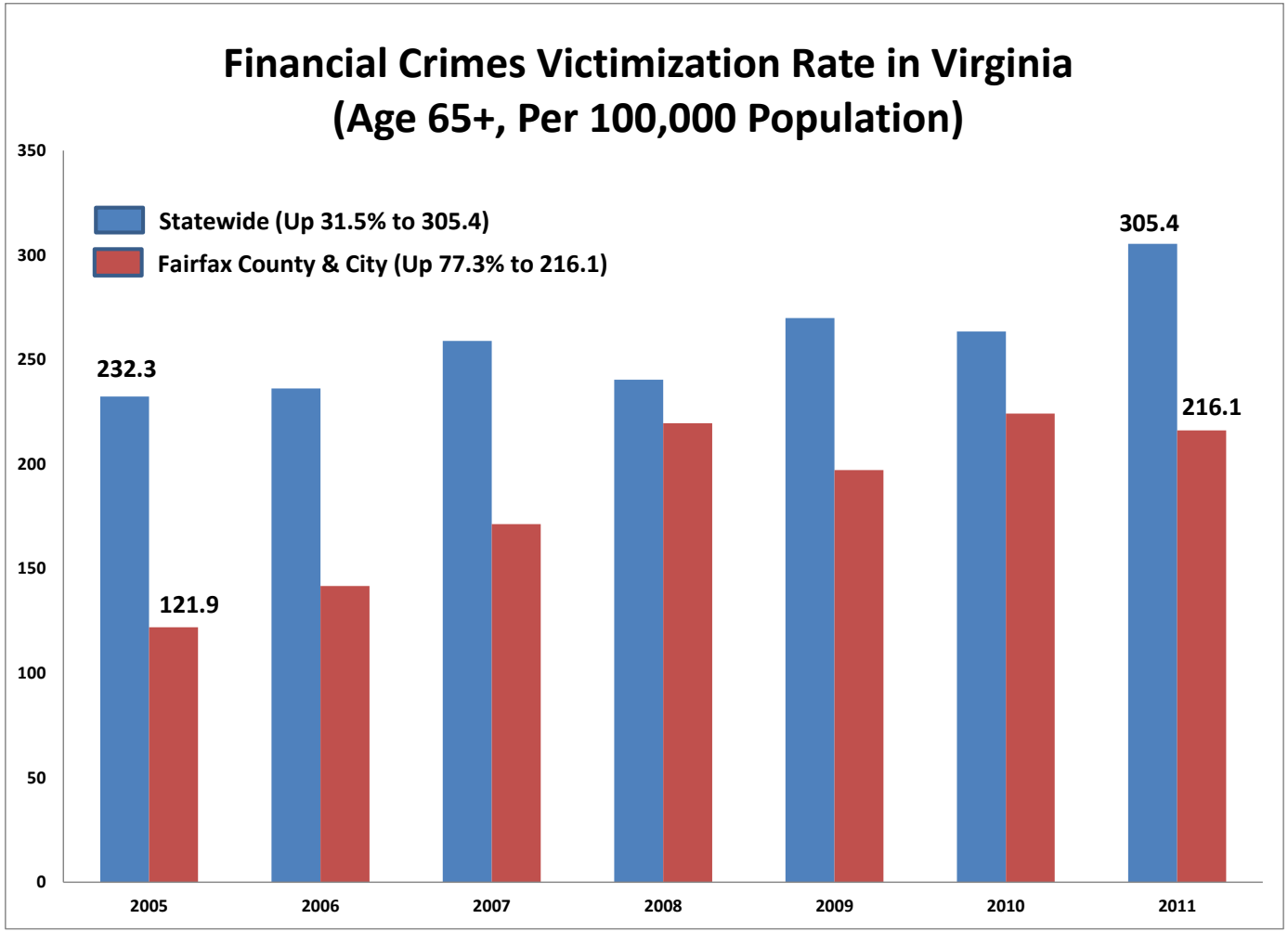
- No single explanation.
- Longer prison terms for violent and repeat offenders.
- Proactive policing: community policing + information technology.
  - Analyze crime data continually, target resources where crime patterns are emerging, and hold police commanders accountable for results.
- Significant drop in cocaine availability.
  - Cocaine arrests in Virginia have declined by 51% since 2006.
  - War on drug cartels in Mexico, Central and South America.
- Aging population – smaller percentage in the high crime-prone age group (15-24 year-old males).
  - Significant drop in the crime rate in the high crime-prone age group.

Financial Crimes

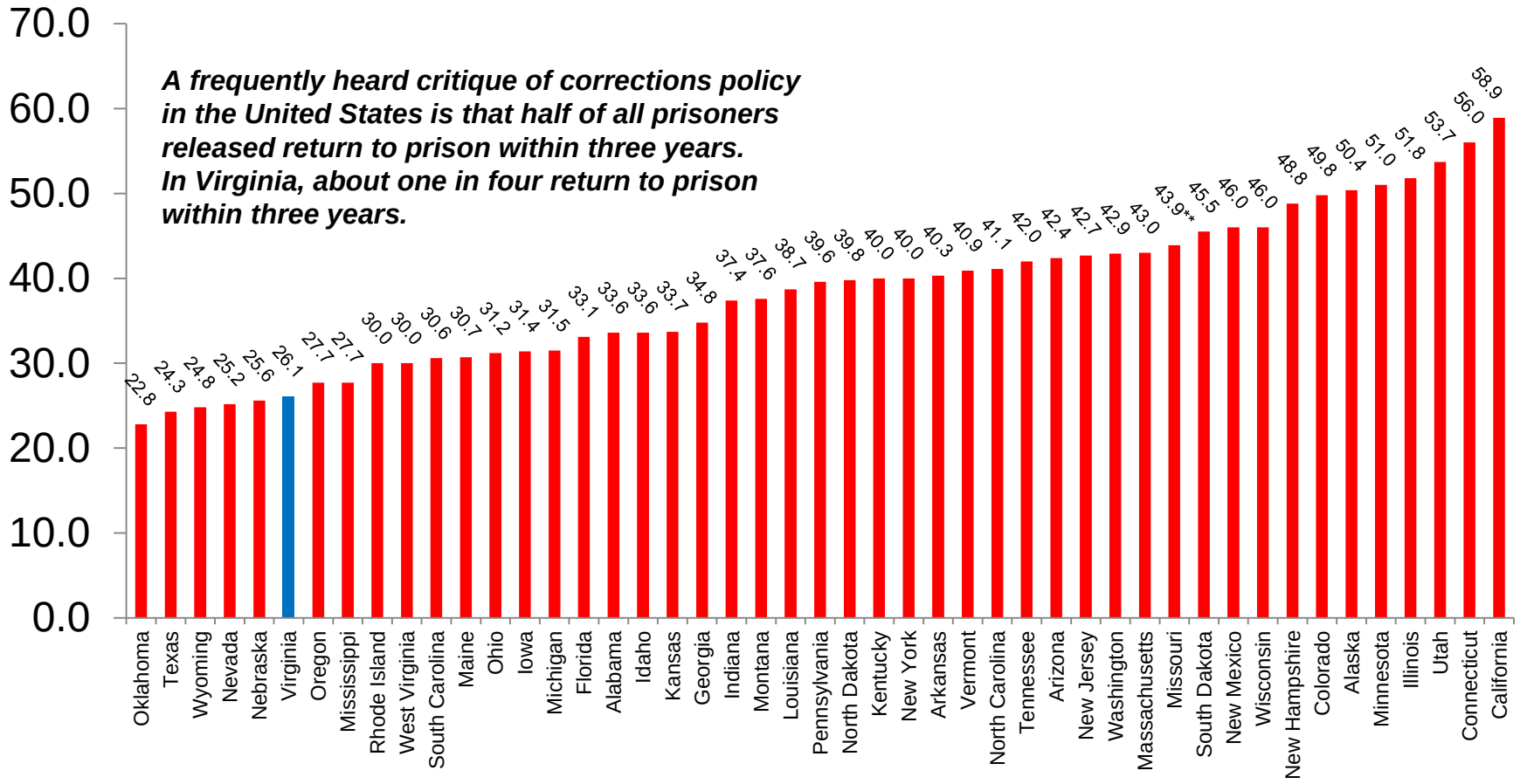
- The victimization rate for financial crimes (per 100,000 population) in Virginia increased 31.5% between 2005 and 2010 for victims age 65 and older, and 22.7% for victims under 65.
  - Financial crimes include fraud, embezzlement, extortion/blackmail, and counterfeiting/forgery.
  - The number of victims in Fairfax County and City combined increased 77.3% for victims 65 and older, and 59.3% for victims under 65.

- The number of fraud complaints is up nationally, particularly for older persons, according to the national fraud complaint database of the Federal Trade Commission.
  - Complaints have increased more sharply in Virginia compared to other states, with Virginia rising from 11th highest complaint rate in 2005 to fifth highest in 2011.

Victimization Rates Have Increased



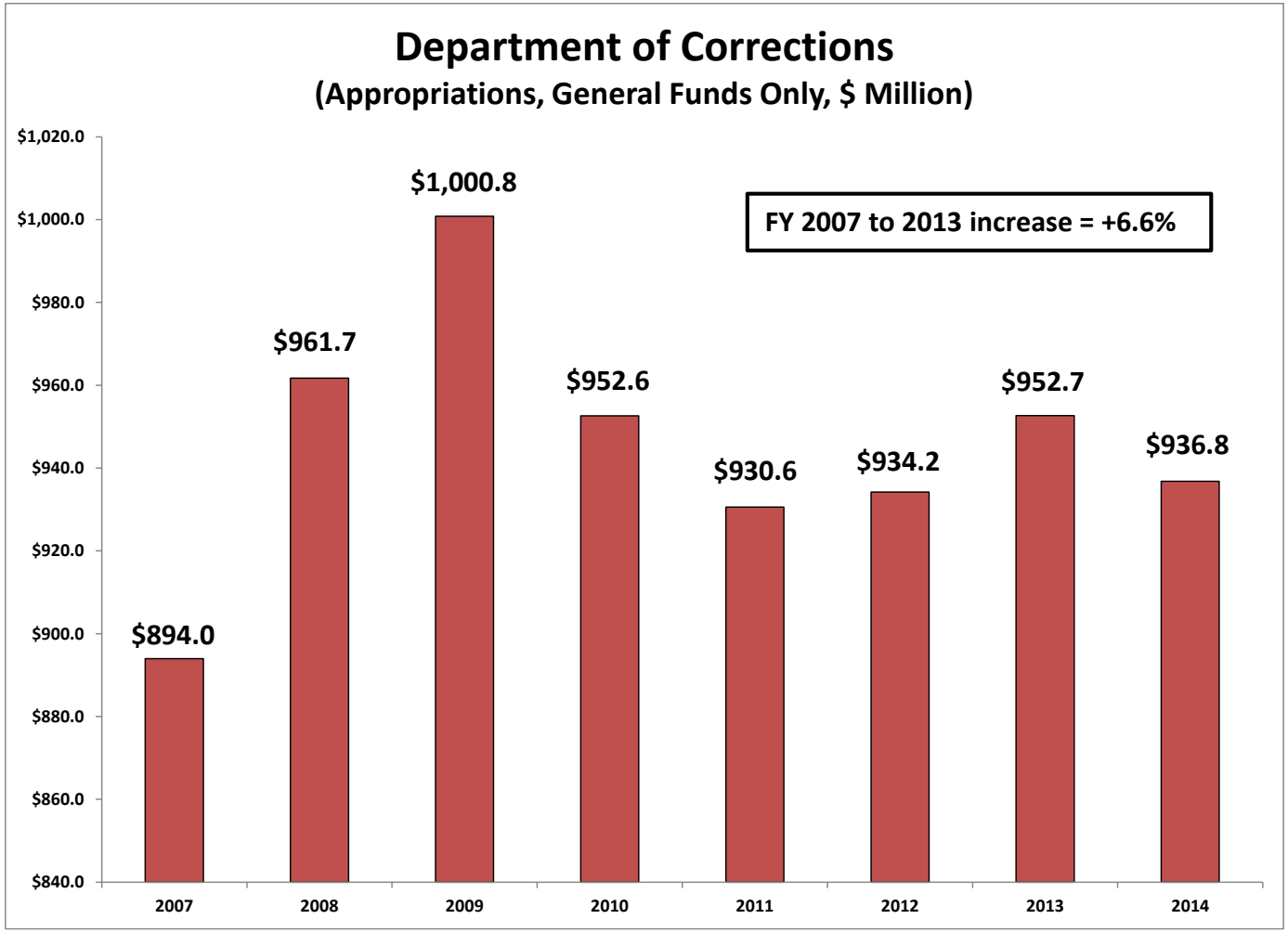
Virginia: 6th Lowest Recidivism



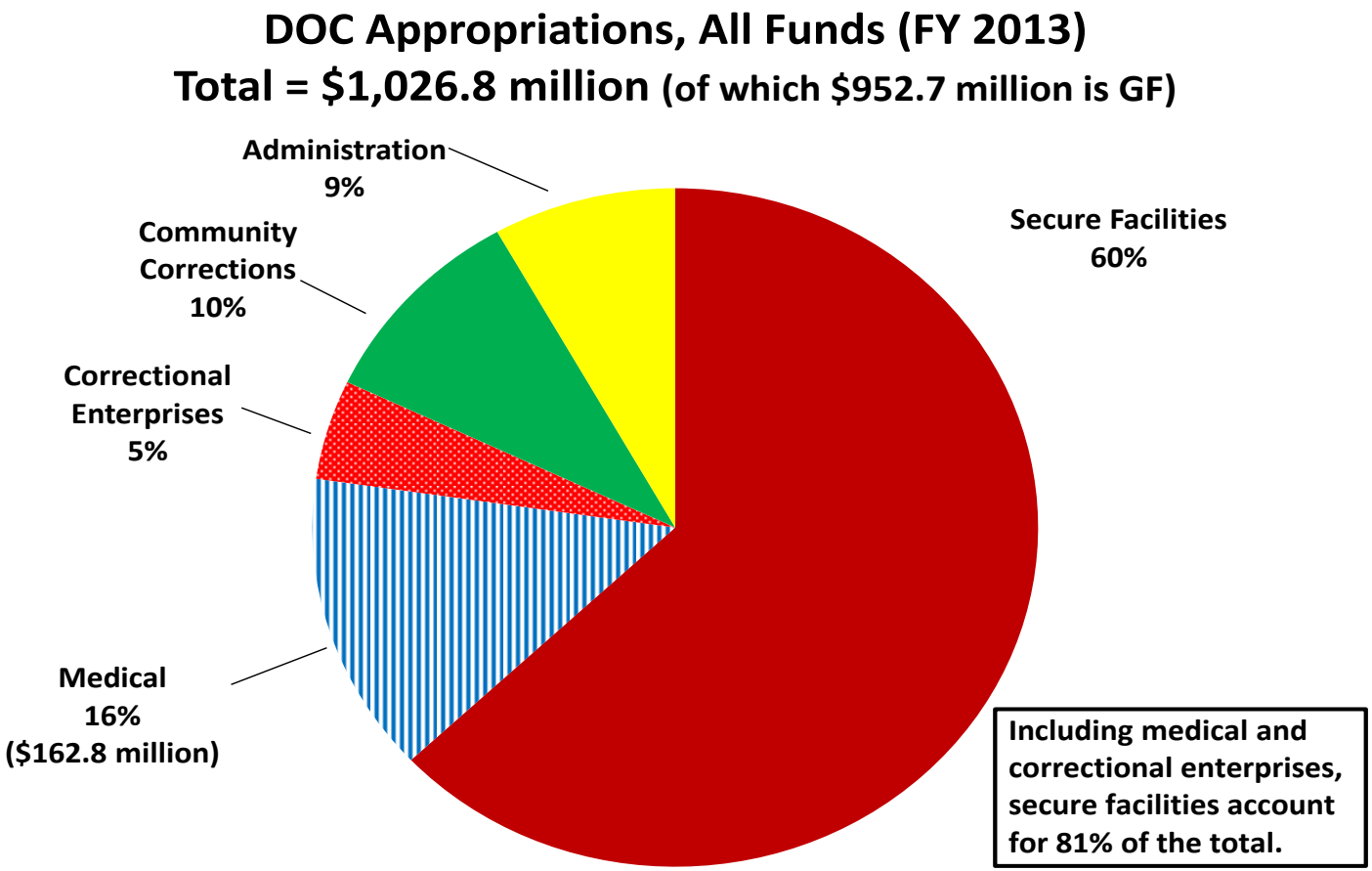
Corrections Budget

- The DOC operating budget for FY 2014 is $936.8 million GF.
  - The budget would have been over $1.1 billion, but ten years of reductions (2002-2012) have reduced the budget by $189 million, which represents an overall reduction of 16.8%.
  - 2,768 positions eliminated since 2002.
    - FY 2014 MEL = 12,335 FTE positions.
  - 15 facilities closed, one new unopened facility (Grayson County).
    - Double-bunking in the remaining dormitory-style facilities has been reduced by 683 beds, reducing the level of crowding.
- Medical expenses are expected to reach $167 million in FY 2014 (17.5% of the operating budget), and these costs are increasing as the inmate population ages.
- Capital maintenance costs are increasing as facilities age.

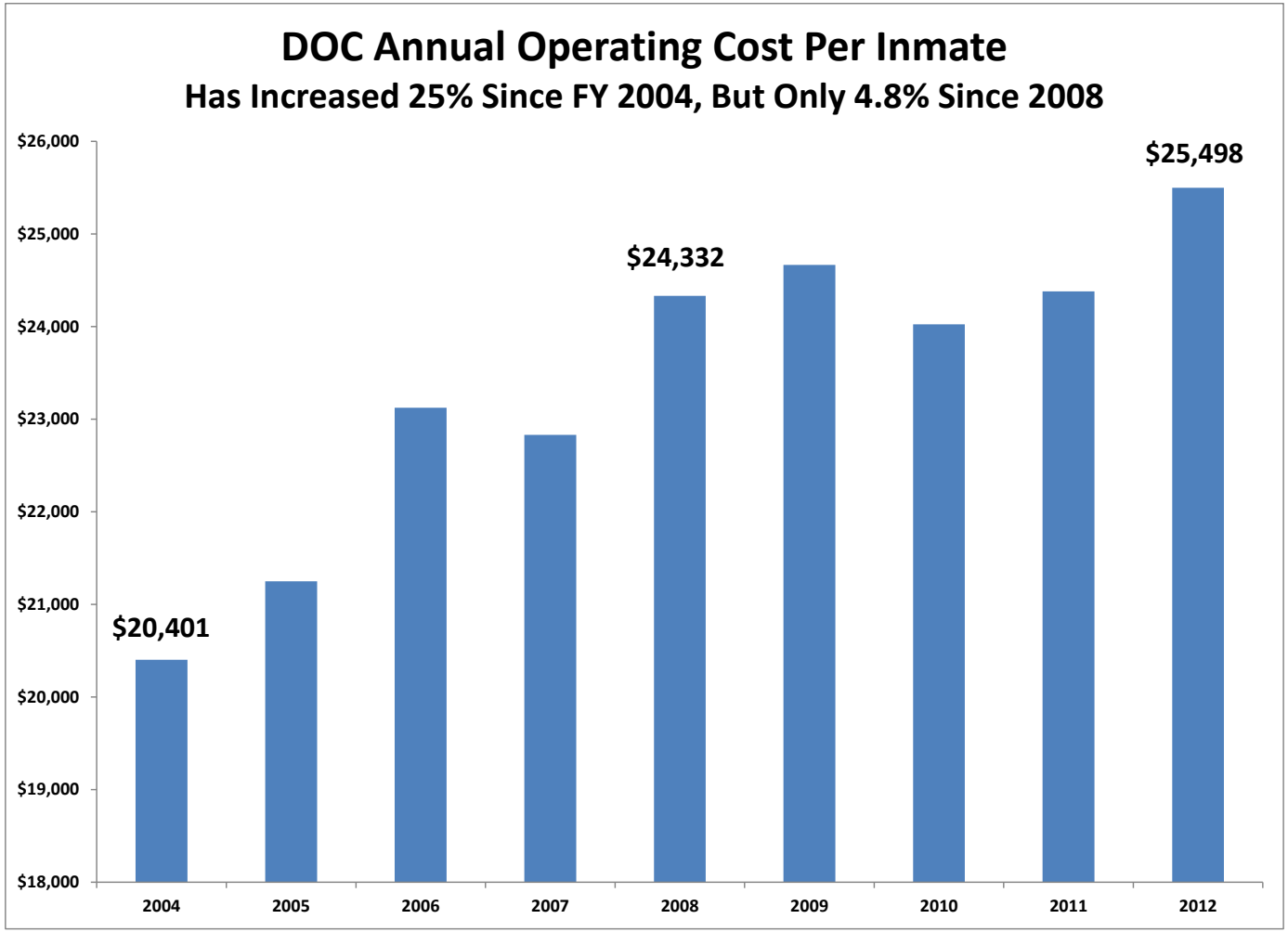
Corrections (FY 2007 – 2014)



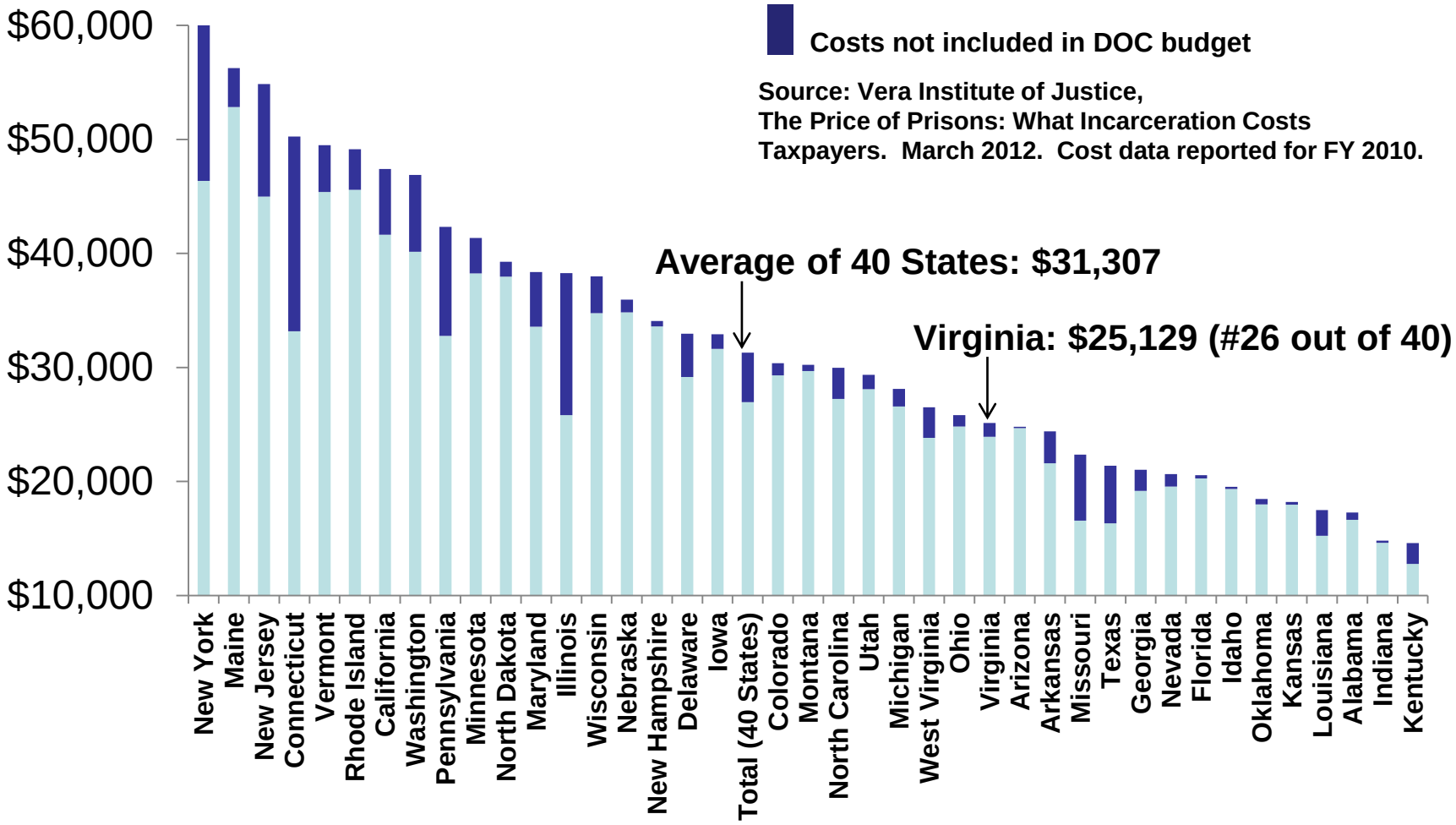
DOC Budget: Where Does It Go?



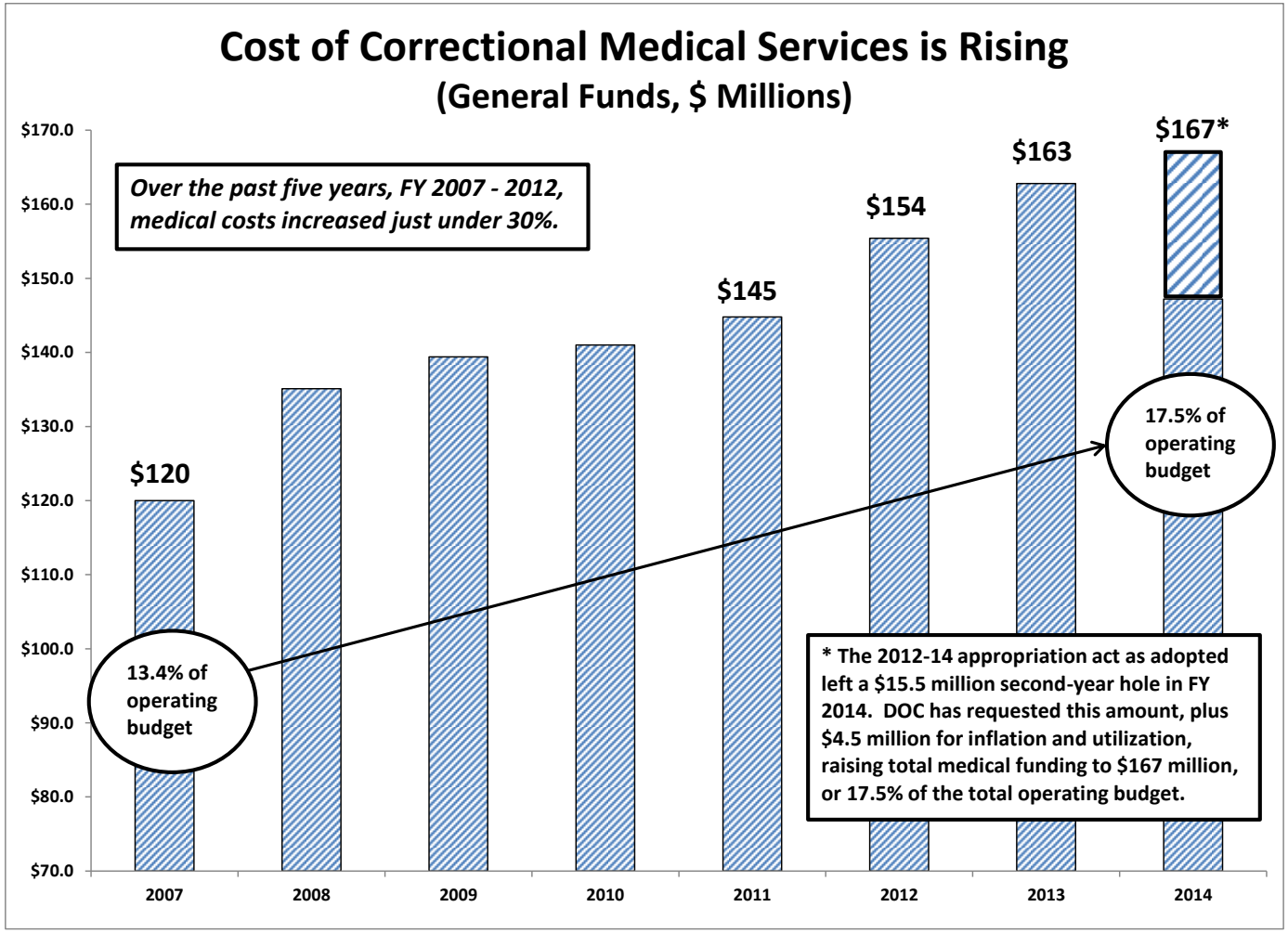
Cost Per Inmate



Total Taxpayer Cost Per Inmate



Medical Costs



FY 2014 Costs for Medical Care

- States are required to provide a "community standard of care" for inmates under their custody.
  - Eighth amendment, Supreme Court decisions, ADA, CRIPA.
- Language in the 2012 appropriation act directs DOC to work with DMAS to enroll eligible inmates in Medicaid to receive federal reimbursement for inpatient care under the Affordable Care Act, beginning January 1, 2014.
  - The administration has not yet determined whether this would represent a net savings to the Commonwealth.
- Assuming a cost-shift to Medicaid, a "second-year hole" was left in the DOC budget ($15.5 million).
  - DOC has requested funding for this amount, plus $4.5 million for inflation and utilization, totaling $20.0 million GF.

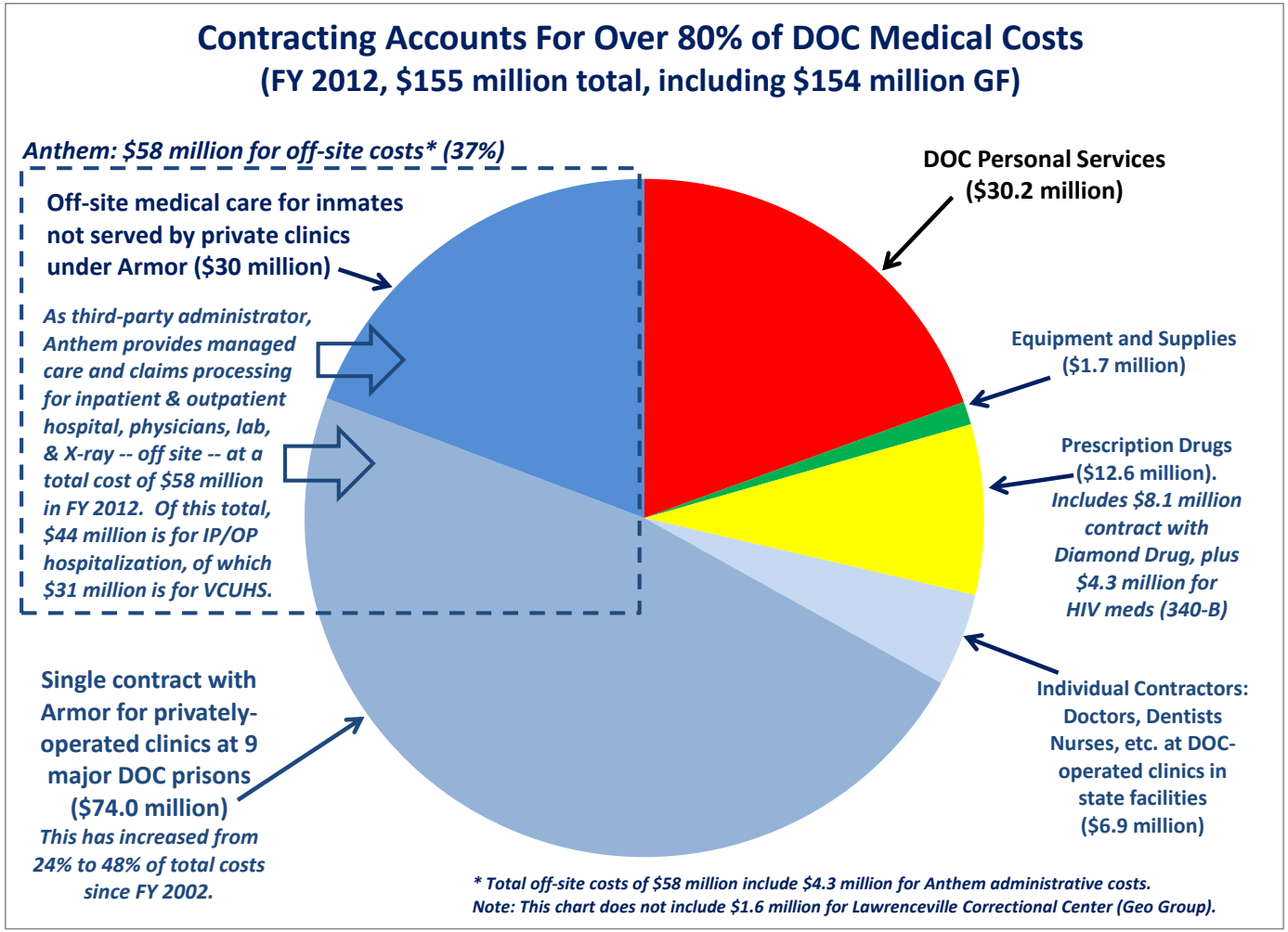
Medical Costs Per Inmate

- According to a 2010 national study, 39 states including Virginia reported an average per inmate medical cost of $4,927 for 2009.
  - Virginia's average cost of $4,322 was about 12 percent below the average for these 39 states.
    - Virginia ranked 26th out of the 39 states reporting.
- Per inmate medical costs in Virginia DOC increased an average of 5.6% each year from FY 2007 to 2012. By 2012, medical costs accounted for one-fifth of total per inmate operating costs.
- One-third of inmates have a chronic care condition (e.g. asthma, diabetes, hypertension, HIV).
  - Improving inmate self-responsibility, preventive care, and chronic illness care in state facilities can help reduce future costs.

Cost Containment Strategies

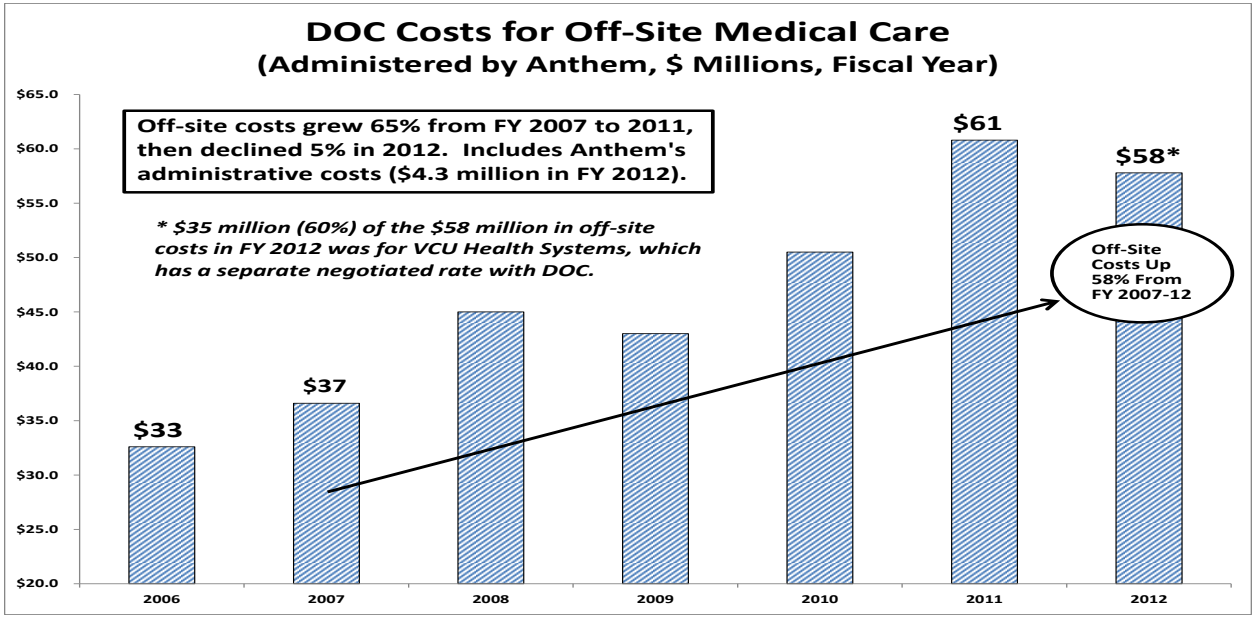
- Telemedicine.
- Copayments ($5 initial appointment; $2 prescription/renewal).
- New private contracts negotiated for clinic services at nine major state facilities in 2011 (Armor), and for pharmacy services and a new formulary in 2011 (Diamond Drug).
- Anthem managed care contract (provider discounts/off-site).
- Negotiated rates at VCU Health Systems (VCUHS).
- Utilization review by full-time DOC physician.
- Request for funds for electronic health records.

Where Does the Medical Budget Go?



Anthem: Third Party Administration

- Since 1996, Anthem has adjudicated the claims for off-site medical care for DOC, and has made payments to providers based on Anthem's negotiated discount rates.*
  - Anthem bills DOC for all claims paid.
  - DOC invoices Armor for its share of the off-site care.



VCU Health Systems

- In FY 2012, VCU Health Systems accounted for 58% of the claims for inpatient/outpatient hospitalization of DOC inmates, and 70% of the costs ($31.1 million out of $44.4 million total) for IP/OP care.
  - VCUHS takes the sicker patients, with longer lengths of stay.
  - VCUHS and DOC have negotiated a per admission charge (currently just over $3,200, not including physician charges).
    - DMAS is currently reviewing DOC hospital claims to determine whether or not a shift to Medicaid for inmates would represent a real savings to the Commonwealth, or merely a shift of DOC costs to VCUHS.
- VCUHS has spent $8.5 million to build a new secure care unit for DOC, plus an additional $3.0 million in capital improvements for other units occupied by inmates.
  - Other non-economic costs associated with inmate medical care.

Medical Claims for High-Cost Inmates

- One in five inmates used off-site medical services in FY 2012.
  - 3.7% (1,173 inmates) accounted for 81% of the $54 million in FY 2012 outside claims incurred.
    - 0.3% (137 inmates) were high-cost claimants, incurring claims exceeding $75,000, and accounted for one-third of total claims.
      - *In Anthem's commercial self-insured population (18 million members in 13 states), HCC's are 0.3-0.4% of population, but only account for 23% of total claims.*
- The top five conditions for these 137 high-cost claimants were cancer, surgical complications, circulatory, digestive, and infections.
  - These five conditions accounted for 83% of the total cost of the 137 high-cost claimants.
- Ten claimants accounted for five percent of the total outside medical claims for DOC ($2.7 million out of $54 million in FY 2012).

Top Ten High Cost Claimants

Age Group	Sex	Primary Health Condition	Total Paid
55-59	M	Meningitis	$373,247
30-34	M	Hodgkin's Disease	$318,773
40-44	M	Congenital Heart Abnormality	$306,843
55-59	M	Gangrene/Bilateral Foot Amputation	$303,868
50-54	F	Tracheostomy/Lung Cancer	$247,328
50-54	M	Thyroid Cancer	$244,574
30-34	M	Empyema	$240,279
55-59	M	Multiple Myeloma	$228,249
30-34	M	Gallbladder Cancer	$220,886
60-64	M	Bladder Cancer	$219,550

Controlling Inmate Medical Costs

- DOC has taken aggressive steps to control medical costs.
  - Drug costs have only risen 3.2% over the past five years.
    - Single contract with Diamond, tighter formulary, increased use of generics.
  - The portion of the medical budget represented by private contract for in-house clinic services has doubled (24% to 48%) since FY 2002.
    - DOC and Armor have taken steps to reduce utilization of off-site services, resulting in a 2.1% decrease in claims costs in FY 2012.

- The key is balancing the use of state-employed medical personnel, and contracting (on a capitated basis) with private entities to provide medical care using their own employees -- and in both cases minimizing the use of more expensive, off-site services.
  - A critical decision facing DOC is to determine the best management structure for the regional clinic at Powhatan Correctional Center.
    - Study requirement in Item C-33.50 of 2012 appropriation act.

Older Inmates in Corrections

- Nationally, the number of persons incarcerated age 55 and older more than doubled from 2000 to 2010.

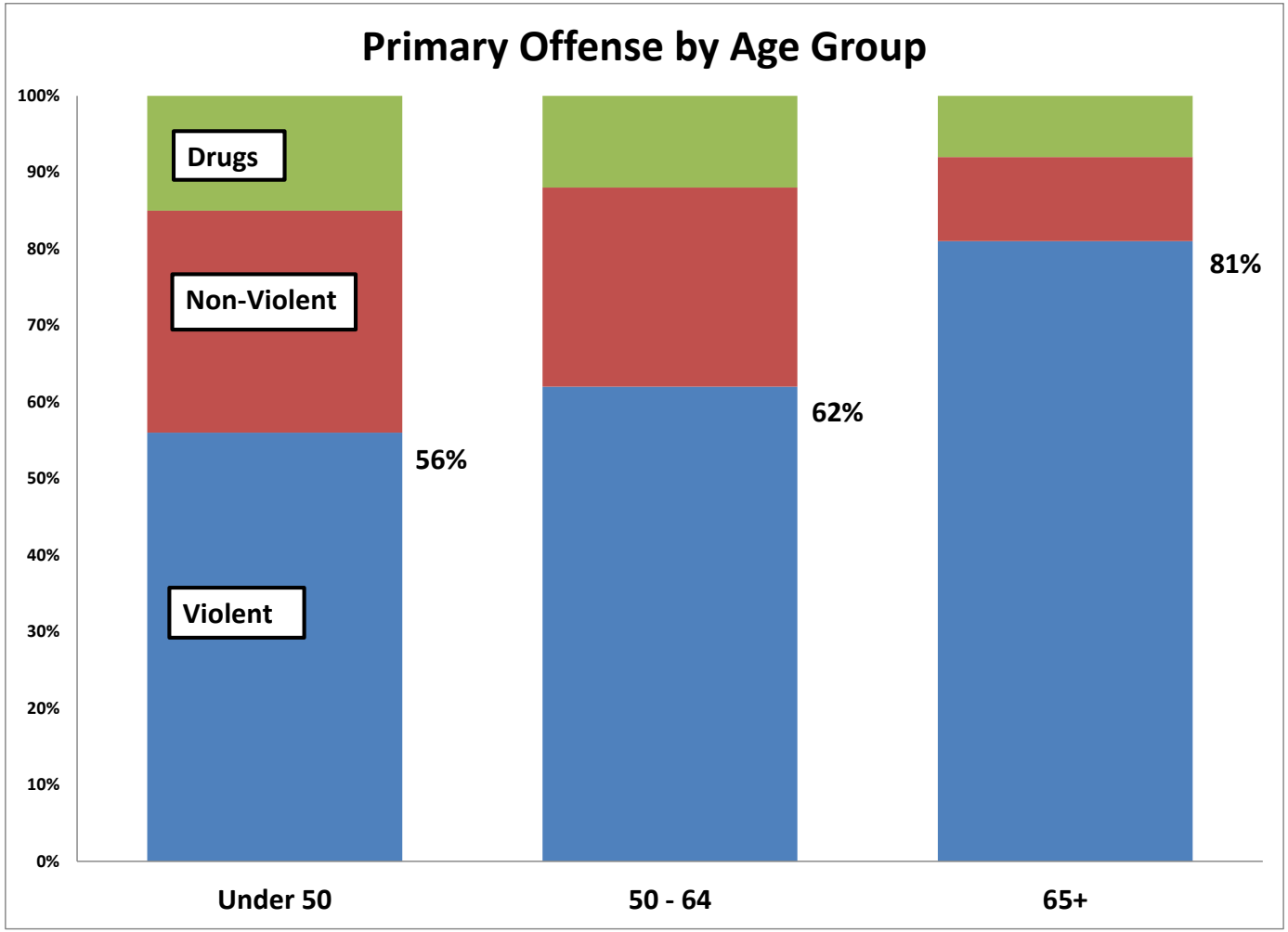
- On average, a 50-year-old inmate in prison has more significant medical issues than a person of the same age in the general population. For this reason, DOC includes inmates age 50 and older in its definition of "geriatric" inmates for study purposes.
  - Psychological stresses of prison life.
  - Criminal lifestyle issues prior to incarceration.

- In Virginia, the state-responsible confined population age 50 and older increased six-fold -- from 822 in 1990 to 6,151 in 2011.
  - This group now comprises 16% of the confined population.

Older Inmates: Nature of Offense

- On average, older offenders in Virginia have longer projected lengths of stay (13 years for the over-65 group), compared to 6.5 years for the under-50 group.
  - Older offenders are more likely than younger offenders to be confined for violent offenses, including first degree murder, rape or sexual assault.
    - 81% of offenders age 65 and over are confined for a violent offense, compared to only 56% for offenders under age 50.
      - *Note that in this case, the definition of violent offense does not include burglary of an occupied building.*
- However, the recidivism rate for older offenders (50 and older) is lower than for younger offenders (18% v. 26% for all offenders).

Older Inmates: Nature of Offense



Geriatric Release

- The Code of Virginia (53.1-40.01) provides for conditional geriatric release for offenders (excluding those convicted of a Class 1 felony):
  - Who are at least 60 years old and have served at least ten years, or
  - Who are at least 65 years old and have served at least five years.

- However, the Parole Board may consider only those eligible geriatric offenders who affirmatively apply for release:
  - Only 129 of 719 eligibles applied in CY 2011 – only three granted.
  - Only 129 of 653 eligibles applied in CY 2010 – only nine granted.
    - At least half of the geriatric offenders are also eligible for discretionary parole, and some are granted parole through that route.

- The nature of the offense is the most important factor.
  - Most inmates considered for geriatric release between CY 2004 and 2010 had committed either homicide (45%) or rape/sexual assault (29%).

Parole Board Actions

- The Senate adopted legislation unanimously in 2012 to allow the Parole Board to review all geriatric offenders, but the bill died in the House of Delegates.
  - Since then, the Parole Board has met with and surveyed geriatric offenders to find other ways to increase geriatric applications.

- The most frequent reason geriatrics do not apply for parole is that, in effect, they have no place to go.
  - Due to age/long sentences, many have no families left to assist them; most have no health services available; most do not have veterans benefits; and, nursing or assisted living facilities will not take them.

- The Parole Board is taking steps to focus on those geriatric offenders that may be the best candidates for release.

Geriatric Facilities

- Deerfield Correctional Center (Southampton County) is a model facility for geriatric offenders and others with special medical needs.
  - Designated in 1998 to house geriatric population; expanded in 2007.
  - Capacity of 1,080 inmates; 57-bed assisted living unit (open dormitory).
  - Two-thirds of offenders over age 50; three-quarters on medications.
  - Annual operating cost of $31,747 per inmate in FY 2012.
  - Security ward at Southampton Memorial Hospital in Franklin.
- Deerfield has developed specialized planning functions:
  - Discharge and reentry planning team; and,
  - End-of-life planning and medical ethics team.
- DOC will need additional space for assisted living in the future.

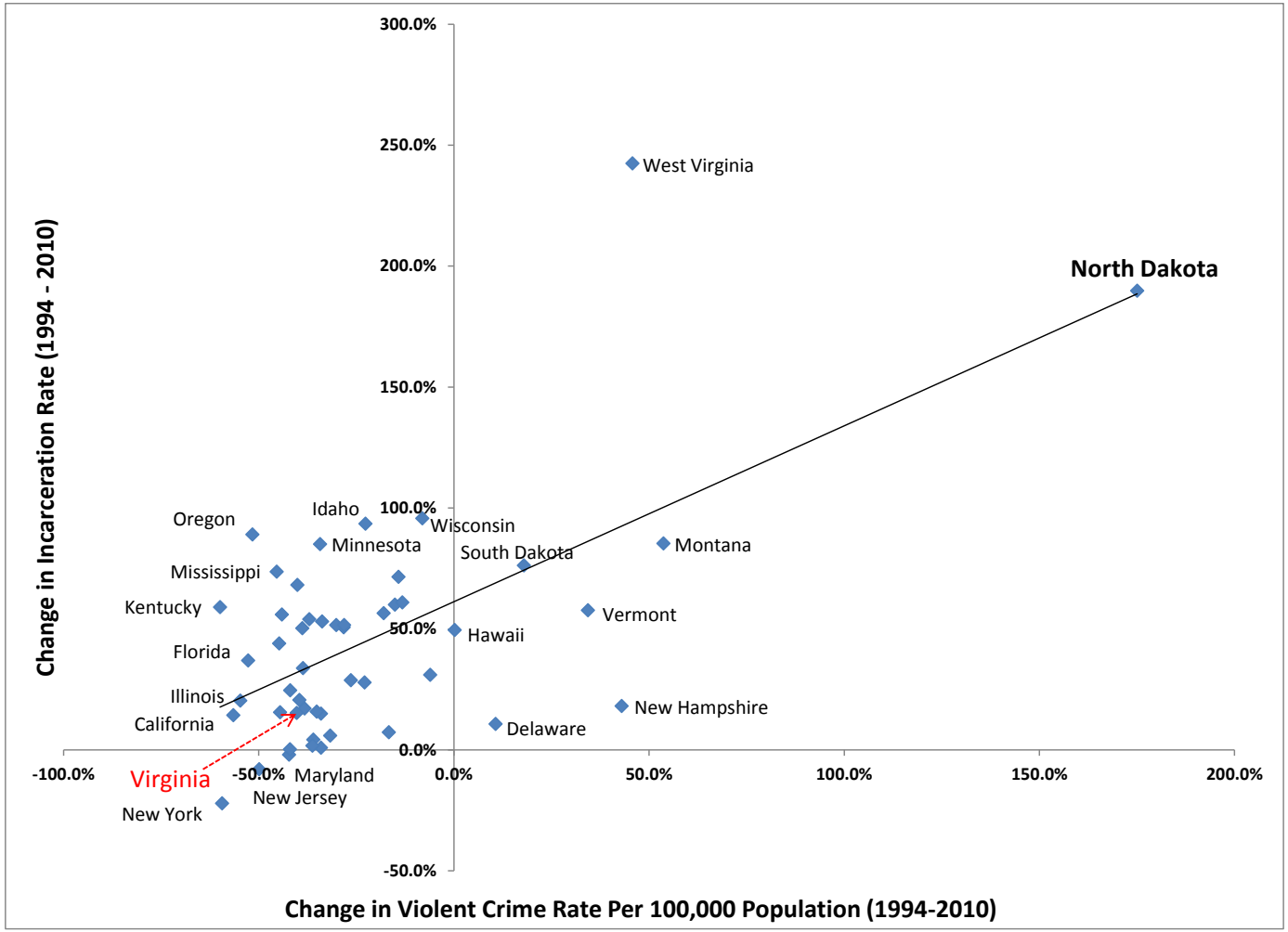
The Bottom Line

- Virginia's operating cost per inmate for adult corrections is below the national average.
- However, medical costs are rising as the inmate population ages, despite aggressive steps by DOC to control costs.
- Additional general funds will be required to cover inmate medical costs in FY 2014.
- The nature of the offenses committed by older inmates limits the extent to which they will be paroled.
- An important challenge is how best to manage correctional medical costs and older inmates.

Appendix

- Staff completed a study of the changes from 1994 to 2000 in state incarceration and violent crime rates, for all 50 states.
- Recidivism in Virginia has remained at about one in four since 1992.
- Virginia's facilities are secure (the definition of serious assaults on inmates was changed in 2011, which led to an increase in 2012).
- The state-responsible offender forecast has increased.
- The local-responsible offender forecast has increased, but the level of double-bunking in local and regional jails (statewide) is expected to remain well below recent levels.

Incarceration and Violent Crime Rates



Violent Crime Rates (1994 to 2010)

16 States Decreased More Than 40%	
Kentucky	-59.9%
New York	-59.4%
California	-56.5%
Illinois	-54.7%
Florida	-52.7%
Oregon	-51.6%
New Jersey	-49.9%
Mississippi	-45.4%
Alabama	-44.7%
North Carolina	-44.5%
Louisiana	-44.1%
Maryland	-42.2%
Arizona	-42.0%
South Carolina	-42.0%
Virginia	-40.3%
Indiana	-40.1%

7 States Increased	
North Dakota	175.1%
Montana	53.7%
West Virginia	45.8%
New Hampshire	43.0%
Vermont	34.4%
Delaware	10.7%
Hawaii	0.2%

7 States Decreased Less Than 20%	
Maine	-6.1%
Wisconsin	-8.1%
Iowa	-13.2%
Pennsylvania	-14.2%
Arkansas	-15.1%
Alaska	-16.6%
Tennessee	-18.0%

Virginia experienced the 15th greatest decrease in the violent crime rate from CY 1994 to 2010. During this period, Virginia dropped from #36 in 1994 to #45 in 2010. Only Maine, Vermont, New Hampshire, Wyoming and Utah reported lower rates in 2010.

Incarceration Rates (1994 to 2010)

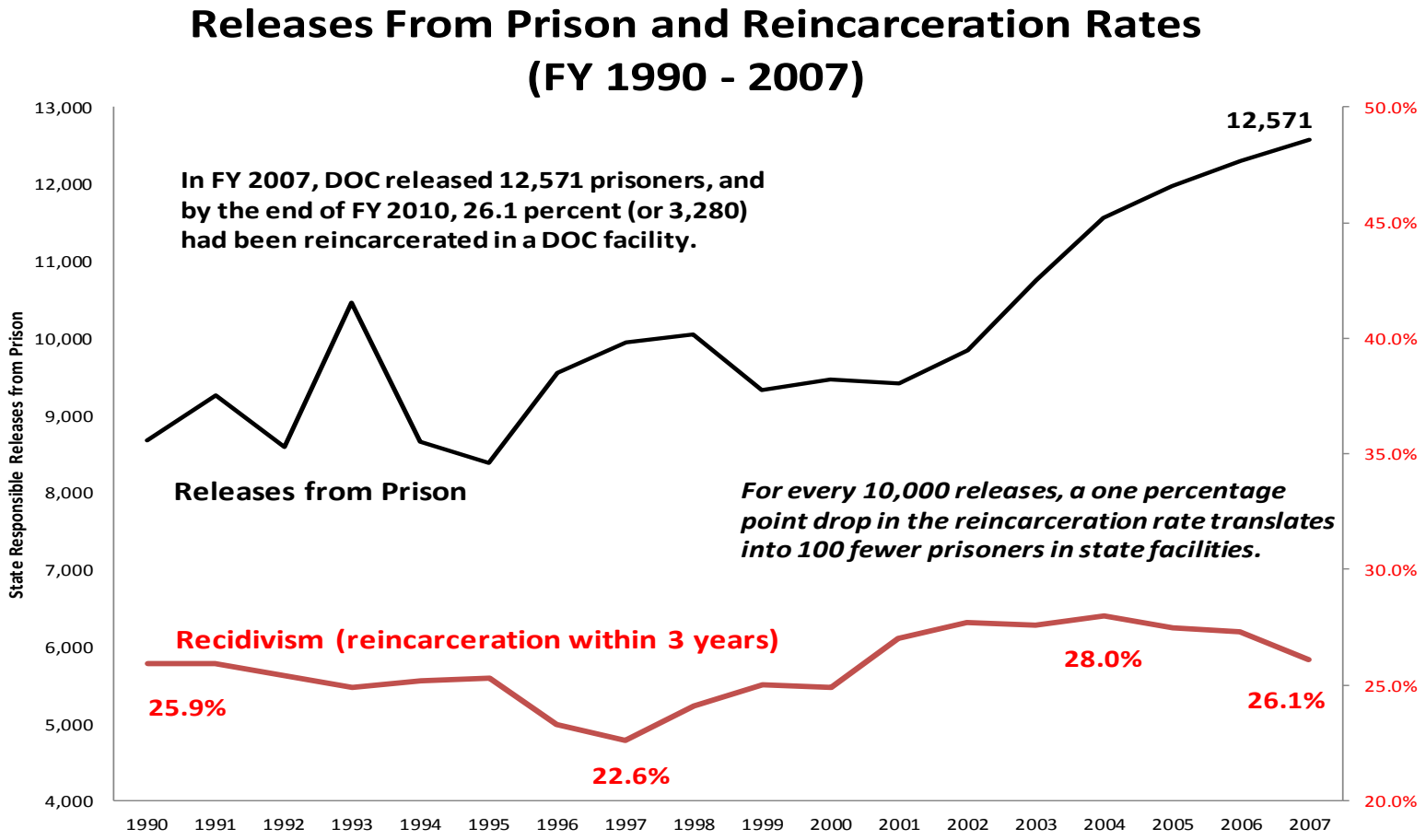
23 States Increased More Than 50%	
West Virginia	242.5%
North Dakota	189.7%
Wisconsin	95.7%
Idaho	93.5%
Oregon	89.0%
Montana	85.3%
Minnesota	85.0%
South Dakota	76.3%
Mississippi	73.7%
Pennsylvania	71.5%
Indiana	68.2%
Iowa	60.9%
Arkansas	60.0%
Kentucky	59.0%
Vermont	57.7%
Tennessee	56.5%
Louisiana	55.9%
Colorado	54.0%
New Mexico	53.1%
Utah	51.6%
Wyoming	51.6%
Nebraska	50.6%
Missouri	50.3%

3 States Decreased	
New York	-22.1%
New Jersey	-8.0%
Maryland	-2.0%

14 States Increased Less Than 20%	
South Carolina	0.2%
Nevada	0.9%
Texas	1.7%
Michigan	4.2%
Rhode Island	5.9%
Alaska	7.3%
Delaware	10.8%
California	14.3%
Massachusetts	14.9%
Virginia	15.3%
North Carolina	15.5%
Ohio	15.8%
Connecticut	17.1%
New Hampshire	18.1%

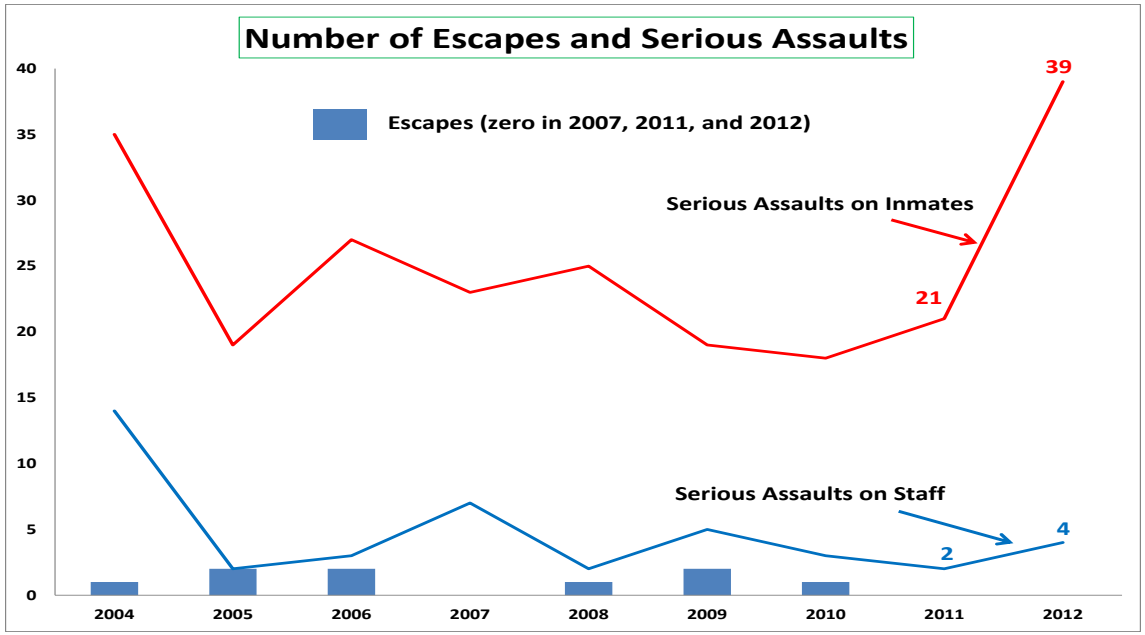
Virginia had the 13th smallest increase in incarceration rate from December 31, 1994-2010. In 1994, Virginia ranked 10th highest in the rate of incarceration; in 2010, Virginia ranked 14th.

Recidivism in Virginia Remains Low

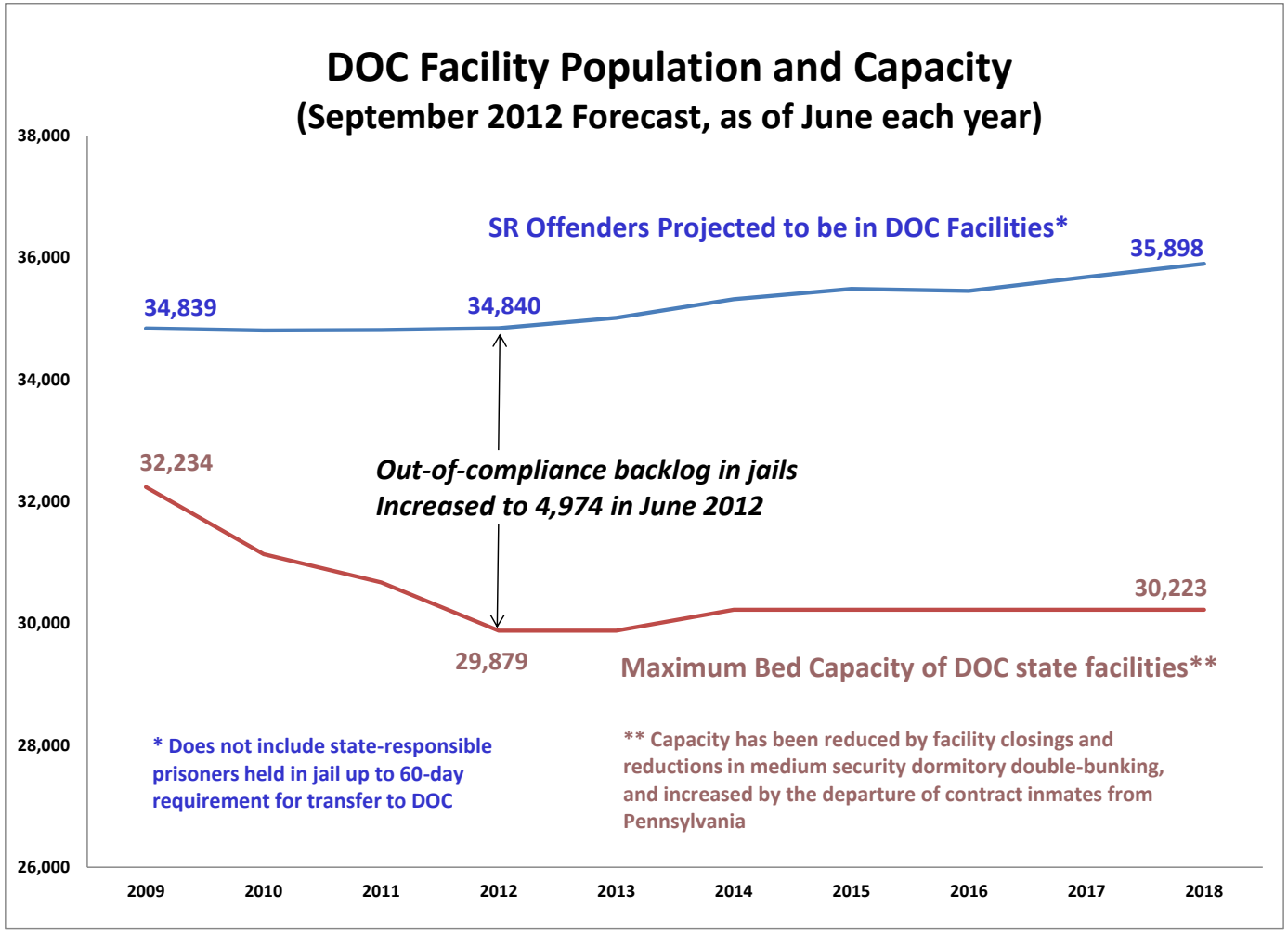


Virginia's Facilities Are Secure

- There were no escapes in FY 2007, 2011 and 2012. The number of serous assaults on staff remained low.
  - The definition of serious assaults on inmates was changed in 2011 to include assaults that did not require hospitalization, which accounts for the increase in 2012.



State-Responsible Forecast



Jail Population and Capacity